

Patent
10/608,978

REMARKS

Claims 1-4 and 6-14 are pending in the application. Claim 1 is the only independent claim and has been amended herein.

Claims 1-4, 6-11 and 13-14 were rejected under 35 USC 103(a) as being anticipated by US Patent 5,868,735 (Lafontaine) in view of US Patent 6,497,721 (Ginsburg et al.) and Claim 12 was rejected as being unpatentable over Lafontaine and Ginsburg in view of US Patent 6,063,101 (Jacobsen et al.).

In view of the foregoing amendments and the following comments, each of the outstanding rejections is respectfully traversed and reconsideration is requested.

Claim 1, as amended herein, is directed to a device to treat tissue including an outer tube, an inner tube disposed at least partially within the outer tube and including a guidewire lumen, a supply lumen and a return lumen, and a dual balloon. The dual balloon includes an inner balloon and an outer balloon, the inner balloon coupled to the inner tube at a proximal end and at a distal end, the outer balloon coupled to the inner tube at a distal end and to the outer tube at a proximal end. A first interior volume, defined between the outer balloon and the inner balloon, is in fluid communication with an inlet in the volume between the outer tube and the inner tube, and at least two radially extending tabs, *extending from the inner tube*, are disposed around a circumference of the inner tube to substantially center the inner tube within the dual balloon. *Working fluid, input into the first interior volume, passes the radially extending tabs, and is not unduly impeded by the tabs.*

The Action takes the position that Lafontaine teaches all of the limitations of the claim except two radially extending tabs – Amplantz et al. disclose a balloon catheter that includes tab members to anchor the inner lumen of the catheter within the balloon while inflated – [t]herefore, it would have been obvious...to include two tab members to anchor the inner lumen within the balloon when inflated".

Patent
10/608,978

In response to Applicants' previous arguments (noting that Amplatz fails to teach or suggest a device that includes at least two radially extending tabs that are disposed around a circumference of the inner tube to substantially center the inner tube within the dual balloon), the Examiner noted in the Final Action that the "two tabs were not required by the claims to extend from the inner tube".

Applicants have amended Claim 1 to clarify that the at least two tabs extend from the inner tube.

In addition, Applicants have amended Claim 1 to recite that: *working fluid, input into the first interior volume, passes the radially extending tabs, and is not unduly impeded by the tabs.*

The "anchoring structure" described in Amplatz uses *one* thin, flexible plastic sheet material that has opposing ends bonded to the inside surface of the balloon member to prevent "sagging or drooping" that would cause the optical path leading from the light fiber to the vessel wall to be unsymmetrical.

Amplatz does *not* however teach or suggest using *at least two tabs, radially extending from the inner tube*, to center the tube within a dual balloon -- wherein working fluid, input into an interior volume defined by inner and outer balloons, passes those tabs and is not unduly impeded by such tabs.

For at least the foregoing reasons, independent Claim 1, as amended herein, is believed to be patentable over any permissible combination of the teachings of Lafontaine, Ginsburg and Amplatz, and reconsideration is requested.

Dependent Claims 2-4 and 6-14 are believed to be clearly patentable for all of the reasons indicated above with respect to Claim 1, and even further distinguish over the cited references by reciting additional limitations.

Since the Applicants have fully responded to the final Office Action, it is respectfully submitted that in regard to the above remarks that the pending application is patentable over the art of record and prompt review and issuance is accordingly requested. Should the Examiner be of the view that an interview would expedite consideration of this Amendment After Final

Patent
10/608,978

Rejection or of the application at large, request is made that the Examiner telephone the Applicants' undersigned attorney at (908) 518-7700 in order that any outstanding issues be resolved.

Respectfully submitted,


Karin L. Williams Registration No. 36,721

Please Continue to Send All Correspondence to:

Mayer & Williams PC
251 North Avenue West, 2nd Floor
Westfield, NJ 07090